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Tuesday, July 7, 1987

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

WILLIAM PRESTON DAVIS,

No. 1-86-01692

[Debtor](#) ⁱ.

_____ /

ORDER SUSTAINING OBJECTION TO CLAIM ⁱ

In the above [Chapter 13](#) ⁱ matter, an objection was filed to the claim of Jinsil Pang as being untimely. The [creditor](#) ⁱ admits that the claim was filed late; her only argument is that because the debtor scheduled the claim its late filing should be allowed. Since Pang's attorney has informed the court that he will not attend the hearing set on the objection, the court treats the matter as submitted by her. Many actions taken by a creditor during bankruptcy proceedings may be deemed informal proofs of claim, which have the effect of tolling the claim bar date. *In re Anderson-Walker Industries, Inc.* (9th Cir.1986) 798 F.2d 1285, 1288; *In re Pizza Hut of Hawaii, Inc.* (9th Cir.1985) 761 F.2d 1374, 1380. The common element in all cases finding an informal claim is the express intent of the creditor before the bar date to pursue the claim; an acknowledgement by the debtor of the mere existence of the claim is not enough. *In re Solvation, Inc.* (Bkrcty.D.Mass.1985) 48 B.R. 670, 673. The mere listing of a creditor's claim in a debtor's schedule is not a basis for a belated amended [proof of claim](#) ⁱ. *In re Greene* (DC D.R.I.1983) 33 B.R. 1007, 1009. Section 1111(a) of the [Bankruptcy Code](#) ⁱ provides that in [Chapter 11](#) ⁱ cases a creditor whose claim is properly listed need not file a formal proof of claim; there is no analogous provision in Chapter 13, and

Bankruptcy Rule 3002 requires that formal claims be filed in Chapter 13 cases. Interpreting the law as urged by Pang would render both section 1111(a) and rule 3002 meaningless. For the above reasons, the objection to the claim of Jinsil Pang is sustained.

Dated: December 7, 1987

ALAN JAROSLOVSKY

U.S. [BANKRUPTCY JUDGE](#) 

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